

DEPARTMENT OF PLANNING AND DEVELOPMENT
DIRECTOR'S REPORT

ADULT CABARETS IN SEATTLE

March 28, 2006

INTRODUCTION

In May, 2005, the City Council approved a work plan for the Department of Planning and Development (DPD) to prepare, with the assistance of the City's Law Department, a legislative proposal defining and regulating adult cabaret uses in appropriate zones in Seattle. DPD proposes that these uses be allowed within the area bounded by:

South Walker Street on the north;
3rd and 4th Avenues South on the west;
Interstate 5 on the east; and
Duwamish Avenue South on the south.

(See Map Attachment 1).

DPD proposes to define adult cabarets, allowing them subject to certain development standards, including maximum size and limits on on-premise signs.

The purpose of this report is to:

- 1) identify the land use impacts of adult cabarets; and
- 2) recommend appropriate locations for adult cabarets; and
- 3) recommend applicable development standards.

There are many perceptions about the impacts adult entertainment uses have on a neighborhood or community. This report, however, focuses on impacts that can be addressed through land use regulation. It does not intend to regulate the activity within adult entertainment establishments. After researching current literature, case law, and studies prepared by other jurisdictions, DPD concludes that in addition to generating conventional land use impacts, adult entertainment establishments have the potential for negatively impacting public safety and welfare, and property values.

CONTEXT AND BACKGROUND

Zoning regulation of adult entertainment uses has consistently challenged many communities across the country generally due to the perception that these uses degrade property values and are a threat to public safety. Historically in Seattle these uses were located in the downtown area, the majority of which were located along First Avenue. Many citizens continue to identify adult entertainment with this area. However, it was not until adult entertainment

businesses began locating in neighborhoods outside downtown that the City began to specifically identify and regulate them through zoning.

Adult motion picture theaters in Seattle were the first regulated, in 1976. In 1979, adult panorams were identified separately and were only allowed in certain downtown zones (Downtown Office Core1 and 2 (DOC1 & DOC2), and the Downtown Retail Core (DRC) zones).

Over the years several "strip clubs", or adult cabaret establishments, located outside of the downtown area in Seattle's neighborhood business districts. Citizen concerns about these uses prompted the City Council to pass an ordinance requiring adult cabarets to be licensed (Ordinance 114225). The Council also placed a moratorium on the establishment of any new topless dancing establishments in these neighborhoods (Ordinance 114254). Both ordinances were passed in November 1988.

DPD (formerly the Department of Construction and Land Use) was directed to make recommendations for amendments to the Land Use Code that would minimize the adverse impacts of adult cabarets. The City Council Public Safety Committee conducted a public hearing on proposed adult cabaret regulations in April, 1989. The concerns expressed at that public hearing prompted the Council to extend the moratorium on adult cabarets (Ordinance 114531). This moratorium continued through its last extension in May, 2005. In late 2005, the City's moratorium was overturned by the courts. DPD was once again asked to report back to the Council and propose appropriate locations in which to allow adult cabarets and how to regulate them.

Adult Cabarets

"Adult cabaret" refers to establishments where nude and/or semi-nude dancers perform for adult members of the public. Food and/or beverage may or may not be served. Liquor is generally not sold on the premises due to provisions of state liquor laws.

Adult Cabarets, also known as strip clubs, topless dance halls, bars, and/or nightclubs have been regulated as "performing arts theaters" since the 1986 adoption of the Neighborhood Commercial chapter of the Land Use Code. Before 1986, topless dancing establishments were classified as any one of several different uses. Depending on the type of operation, they may have been classified as restaurants, taverns, dance halls, theaters or indoor places of public assembly. Today, as in the past, topless dancing establishments are prohibited in residential zones, and permitted in all commercial (except NC1), industrial (except for the Duwamish Manufacturing and Industrial Center) and downtown zones.

Of the adult cabarets now in business, one is located in the Downtown Mixed Commercial zone (DMC 125). Some form of adult entertainment use has existed at this location intermittently for many years. This business is also licensed as a panoram location. Two adult cabarets are located in a Neighborhood Commercial 2 (NC2) zone, one of which has been at the same location for over 30 years. The only other adult cabaret is located in a C1 zone.

Regulation of Adult Uses

Over the years, the establishment of adult uses in Seattle's neighborhood commercial areas has generated a number of citizen complaints. Community groups, business associations, and hundreds of individuals have testified at public hearings or through letters and emails, expressing their concerns about: litter; noise; traffic; the decline in property values; increases in insurance rates; and fears about burglary, vandalism, rape, assaults, drugs, and prostitution. Many comments have been received on the overall detrimental influence of adult uses on the community.

Local governments must always be cautious in regulating adult uses. Arts and entertainment uses, regardless of whether they are intended for adult audiences only, involve protected forms of expression under the First Amendment to the United States Constitution. This constitutional amendment is often cited in case law involving regulation of adult entertainment businesses. The First Amendment has been the standard against which regulations affecting adult entertainment uses must be measured.

Licensing is one traditional method used by local governments to regulate adult entertainment uses. This approach often requires owners, operators, and/or employees to provide detailed business information. Licensing regulations often specify facility and operational standards. Seattle Municipal Code chapter 6.270 is an example of such a license regulation. This business regulation requires topless dancing establishments to be licensed with the City. Licensing is an effective method for addressing performance-oriented standards. As a general rule, zoning and land use regulation is more effective at addressing locational issues and land use impacts.

In the 1976 landmark decision of *Young v. American Mini Theaters, Inc.*^(ref. #1), the U.S. Supreme Court declared that adult entertainment uses can be subject to carefully tailored local regulations. In order for a land use regulation of adult entertainment uses to be valid, the local jurisdiction must provide adequate opportunities for this type of expression. In other words, zoning cannot be used directly or effectively to ban adult cabarets, or other forms of adult entertainment.

In summary, the Court determined that regulations can be imposed to minimize adverse land use impacts of adult entertainment establishments. This can be accomplished by specifying the zones where adult entertainment uses are most

compatible with the surrounding neighborhood. Another land use regulation is to require that minimum distances be maintained between adult entertainment uses and/or other uses that may be more sensitive to the impacts of adult uses. In the U.S. Supreme Court case, *City of Renton v. Playtime Theaters, Inc.* (ref. #2), it was held that a city is entitled to rely on the experience of other cities in enacting regulatory legislation. Both the Young and Renton decisions have been used in many cities to support local zoning regulation of adult entertainment uses.

Seattle, like many other jurisdictions, relied on the Young decision to restrict adult motion picture theaters to downtown. Citing Young again in 1979, the City limited the areas where adult panorams could be located. In 1985, Seattle's new Downtown Plan established a policy to encourage downtown residential development. The downtown chapter of the Land Use Code reflected this policy by authorizing adult motion picture theaters and adult panorams only in three non-residential downtown zones: Downtown Office Core 1 (DOC1), Downtown Office Core 2 (DOC2) and the Downtown Retail Core (DRC). To date, adult motion picture theaters and adult panorams are the only two forms of adult entertainment uses identified specifically in Seattle's land use regulations.

LAND USE IMPACTS

Overview

Land use regulation is based on the concept of compatibility. Generally, the City's commercial, industrial, and downtown policies encourage a variety of businesses that are compatible with each other and the residential areas they serve. Some uses, however, have impacts which are not compatible with other uses or create unavoidable impacts on surrounding properties.

Uses such as animal shelters, towing services, or construction yards are examples of commercial uses that have objectionable impacts and are not compatible with residential areas or other neighborhood serving businesses in a pedestrian environment. They are specifically identified in the Land Use Code and allowed only where the impacts they generate are minimized.

Adult motion picture theaters were determined not to be compatible near residential neighborhoods oriented towards families with children. This conclusion was found in a study entitled "Zoning Controls for Adults-Only Theaters" prepared by the City Planning Commission in 1976 (Ref # 3). In order to determine in what zones adult entertainment uses should be permitted, it is necessary to survey their impacts and determine with what other uses they are compatible.

During the City Council's public hearing on licensing of adult uses, many citizens spoke of their concerns about these businesses in their neighborhoods. Problems with litter, noise, parking and traffic; inappropriate signage; fears about

deteriorating property values, attraction of undesirable transients, and increases in crime; potential hazards for children and personal safety; were cited. Citizens generally protested that adult entertainment uses interfere with their ability to raise their children in a healthy, family environment.

The decision by the City in 1976 to allow adult motion picture theaters only in the downtown area was based on findings that these same impacts were detrimental to residential areas. This decision was upheld by the Washington State Supreme Court in the Northend Cinema case (Ref #4). In another case, Village of Belle Terre v. Borass (Ref #5), the U.S. Supreme Court recognized that local governments have the right to use zoning based on impacts on family values to protect the public welfare

Many studies prepared by other communities have documented that litter, noise, traffic impacts, public safety impacts (e.g. burglaries, vandalism, assaults, prostitution), and deteriorating property values often occur in association with adult entertainment uses.

Conventional Impacts

Under-represented in many planning studies prepared by other communities are the conventional land use impacts that are often generated by adult entertainment uses. Noise, litter, parking and traffic are impacts commonly associated with adult entertainment businesses.

Because adult entertainment businesses are generally visited late into the night, they are often the sources of complaints about noise. The noise may come from the starting or idling of cars on or near the premises, and from car sound systems. It may be generated by the business's own sound system, or by disorderly patrons. There may also be secondary noise effects. Noise may be created by police and emergency vehicles called in and around adult entertainment establishments in response to disturbances.

Litter is another common problem cited. Since alcoholic beverages are generally not available at adult entertainment businesses in Seattle, neighbors report that beer bottles/cans and other liquor containers are frequently tossed into nearby yards. Food wrappers, condoms and other refuse were among other items neighbors complained were discarded in and around the vicinity of existing adult establishments.

Generally, adult cabarets are auto-oriented. The observation is made in recognition that these businesses are frequented by patrons who wish some degree of anonymity and ease of access and egress that limits visual contact with surrounding uses and pedestrians. Consequently, these are uses that are not necessarily consistent with pedestrian areas and generate a potentially substantial amount of traffic. In addition, normal traffic flow may be disrupted by

police and emergency vehicles that may be called to the scene of a disturbance. On-street parking may be usurped, especially near existing adult cabarets, where little off-street parking is provided.

Secondary Impacts

In a report published by the American Planning Association, *Everything You Always Wanted to Know about Regulating Sex Businesses*, (Kelly and Cooper, Planning Advisory Service Report No. 495-96, Chicago 2000), many major studies were reviewed and the following findings were synthesized from them (Ref. #6).

1. Real estate professionals believe that there is a significant negative impact of adult entertainment businesses and other adult-related entertainment businesses (such as bars with live entertainment) on both residential and business properties. The impacts are less if there is a separation between the studied use and the other use. Beyond 1,000 feet there may be some impact but beyond 1,500 feet there is no basis for believing that there will be any impact on property values. (Rochester, Indianapolis, New York City; some supporting data from Denver).
2. The greatest impacts on property values are on other properties on the same block. (Denver, Rochester).
3. The impacts on property values affect residential properties more than nonresidential properties. (Rochester, Indianapolis).
4. The studies showing the most significant impacts of adult entertainment businesses on neighborhoods involved significant numbers of businesses with live entertainment and/or direct interaction between patrons and entertainers or other employees. (Newport News, St. Paul, Whittier).
5. There is a lower correlation of crime incidents with retail adult entertainment businesses than with those that involve on-premises entertainment of any kind. (Denver).
6. Although there is some evidence of an increase in crime, particularly around concentrations of adult entertainment businesses (Phoenix, Denver, Indianapolis, Whittier, St. Paul), the increase is not necessarily in violent crimes (Phoenix, Denver).
7. At least two cities that studied the issue clearly had prostitution flourishing in some adult businesses (Denver, Whittier).

Property Values

Decline of adjacent property values is another documented land use impact resulting from adult entertainment uses. A study of appraisers, residents and business owners provides some key information regarding this issue.

Indianapolis, Indiana

In 1984, an analysis of adult entertainment businesses undertaken by the City of Indianapolis was conducted by that city's Department of Metropolitan Development (Ref. #7). With the assistance of the Indiana University School of Business, they conducted a national survey of members of the Appraisal Institute(MAI), and the American Institute of Real Estate Appraisers. This survey was intended to determine the market effect of adult entertainment businesses on nearby land values. It was concluded that "adult entertainment businesses - even a relatively passive one such as an adult bookstore - have serious negative effects on their immediate environment." Next-door properties were most affected, decreasing substantially in order of adjacency. Negative impact on property values was substantiated for properties within three blocks of an adult entertainment use. While respondents felt that both residential and commercial properties were affected, residential properties were more severely impacted.

Fort Worth, Texas

A recent survey of appraisers in the Fort Worth-Dallas Metroplex carefully documented the opinions of these real estate professionals about the effects of sexually oriented businesses on the values of surrounding properties (Ref. #8). In a survey submitted to 186 appraisers who carry the professional MAI certification (Member of the Appraisal Institute) and SRA (Senior Residential Appraiser), with 41 responses, the following conclusions were drawn:

- Appraisers were nearly unanimous in responding that adult-oriented businesses of any kind (stores, arcades, or cabarets) would decrease single-family home property values. Other uses deemed similarly detrimental to property values included homeless shelters, bars, and pawnshops.
- More than 70% of the appraisers judged the influence of adult-oriented businesses on property values to extend beyond 3000 feet (or approximately 6 blocks). While a few suggested the influence was not felt quite so far, even the lowest estimates put the distance at 1000 feet. The average distance was between 2700 and 2800 feet. Only homeless shelters were considered to influence property values that far away. Pawnshops, bars, and gas stations were next (2300 to 2500 feet).
- The appraisers considered the property values of community shopping centers to be equally detrimentally affected by the proximity of adult-oriented businesses. More than 75% considered adult uses to decrease commercial property values. The only use considered to be comparable in its decreasing of property values was homeless shelters. Pawnshops and bars were next in their impact on lowering appraised values for community shopping centers but to a much lower degree (53% and 32%, respectively).

- Approximately 50% of the appraisers felt adult-oriented businesses impact shopping centers' appraised values beyond 3000 feet. As compared to single-family homes, the distance at which appraised values would no longer be affected by an adult use was somewhat less. Other respondents felt that it only took from 2200 to 2300 feet before an adult use had no impact on the appraised value of a shopping center. Only homeless shelters were suggested to have a further reach (2400 feet). Again, pawnshops and bars were next in their influence on property values within 2000 and 1900 feet, respectively.
- The vast majority of appraisers agreed that a concentration or cluster of detrimental uses had a greater negative impact than isolated uses.
- Three negative uses grouped together was considered by most appraisers to be the level at which the impact was greater. The grouping was considered to occur if uses were within approximately 1000 feet of each other. They felt the concentration ceased to have an impact at an average distance of 3800 feet (as compared to approximately 2300 to 2800 feet single uses).
- Slightly more than 20% of appraisers felt that the answers to the survey questions might be influenced by their "personal, moral, or ethical beliefs." This means the findings may be slightly skewed negatively towards adult-oriented businesses.

Because the response rate was lower than in some surveys, the margin of error was 13.7 percent; but, in response to many of the questions, more than 80 percent (and in some cases more than 90 percent) agreed on the nature and extent of the adverse secondary effects of sexually oriented businesses on other properties; thus, even applying the worst-case margin of error to the findings, a significant majority of the appraisers believed that these effects would occur.

Rochester, New York

The City of Rochester, New York, conducted a survey of 39 property appraisers to determine their perceptions of impacts of sexually oriented businesses on residential and commercial property values. This was important since most ordinances deal with sexually oriented businesses by requiring them to be separated by some specified distance (typically between 500 and 1500 feet) from certain categories of land-use. The Rochester survey attempted to find a relationship between distance and impacts on property.

Based on the results of the survey, appraisers in the Rochester, Monroe County area have the following views on the impact of sexually oriented businesses:

- Bars with nude servers or live entertainers clearly have the greatest negative impact on surrounding property values;
- Sexually oriented businesses have a measurable negative impact on the value of some neighboring property;

- There is significantly more negative impact on the value of neighboring residential property than on commercial property;
- The greatest impact on property values is on properties located on the same block;
- The impact on property value is less significant if located along the same street than if located on the same block; however, it is of greater significance than any particular distance separation;
- Based on a combination of responses, if two properties are equi-distant from the same *studied business*, with one located on the same street as the *studied business* and the other on another street, the property located on the same street as the *studied business* will suffer greater impacts;
- The negative impact decreases with distance and stops somewhere between 1,000 and 1,500 feet (Ref. #8).

Public Safety

In the law and planning literature on adult entertainment uses, public safety hazards are the most often cited adverse land use impacts for surrounding neighborhoods. Some evidence indicates that crime rates increase with the presence of adult entertainment uses. The major crimes frequently mentioned include: burglaries, assaults, indecent exposure, and prostitution. This criminal activity is often associated with areas in which a concentration of adult entertainment is allowed to prosper.

New York City police found that serious crime complaints ran almost 70% higher on police posts that contained adult uses (Ref #9). The cities of Cleveland, Ohio (Ref #11); Indianapolis, Indiana (Ref #7); Los Angeles, California (Ref #12); and Austin, Texas (Ref #13); among others have documented that crime rates were anywhere from 15% to 77% higher in areas containing adult businesses than those areas containing no adult businesses. A study in Phoenix, Arizona (Ref #14) concluded that not only was there a higher rate of sex-related crimes in areas where adult businesses were located, but that rate was significantly higher where there were several adult businesses adjacent to one another.

Most cities prefer to disperse adult entertainment uses, where adult entertainment uses are allowed throughout a community. There are usually special conditions which require these businesses to maintain a certain distance from each other and from public schools and residential zones. Law enforcement strategies are usually less effective when a dispersed approach is used.

A concentrated approach is one that allows adult entertainment uses in one small compact area. This concentrated approach is often used to contain adult entertainment businesses that are historically concentrated in an area. In such cases studies have shown a higher incidence of crime than other business districts in a city (Ref #14). While reports of crime may be comparatively high, it should be noted that in these concentrated or historical "skid road" areas, there

are generally many other potentially problematic uses, such as taverns, lounges, and nightclubs, also concentrated in the zone.

Adult entertainment uses are, generally, auto-oriented or destination-type uses attracting a regional clientele. Trade characteristics studies in Bothell, Washington (Ref #16) and Austin, Texas (Ref #13) confirmed that at least one half of all customers frequenting adult businesses came from outside the city limits (one investigation in Bothell found that of 321 vehicles checked, only 8 were registered in their city). In Austin, less than 5% were located within a one-mile radius of the establishment.

While there are many businesses that may attract a regional clientele, the fact that adult entertainment uses may have an increased potential for criminal activity makes them more of a public safety risk to a neighborhood. People who patronize these establishments may have no sense of identity with or regard for the neighborhood in which these businesses may be located. They may also be less inhibited in their personal behavior than if they were in their own community.

No known analyses or comparative studies have been conducted in Seattle to verify a correlation between adult entertainment uses and criminal activity. It is assumed that adult entertainment uses in Seattle are not unlike those in other cities. It is also not assumed that all adult uses generate or are involved in criminal conduct. But as evidenced in the foregoing discussion, there is enough documentation to demonstrate a link between adult entertainment uses and the potential for increased criminal activity.

The secondary effects of police response to a business have already been noted. The noise from sirens, flashing lights, and traffic hazards created by police and emergency vehicles are disturbances not conducive to healthy business or residential environments. The increased potential for crime, together with these effects, result in impacts that are likely to be more substantial than those of other neighborhood commercial uses, intended to serve the needs of surrounding residents.

ANALYSIS AND RECOMMENDATION

The recommendation to restrict adult cabaret uses to industrial zones is based on the following analysis. Compared with the potential land use impacts of adult cabarets in different areas of the City, adult cabaret uses would be least intrusive and have substantially fewer impacts in industrial areas. The location of an adult cabaret use shares greater compatibility with surrounding uses in industrial areas, and would not have the same negative influence on property values, or contribute to an escalation of criminal activities in and around residential neighborhoods, and would result in the least negative impacts to pedestrians, particularly to children.

Approximately 12% of Seattle's land area is industrially zoned. Of Seattle's industrially-zoned land, more than 90% is contained within the City's two manufacturing and industrial centers (MIC): Ballard/Interbay (17%) and Duwamish (77%). An additional 295 acres is zoned industrial outside of the two centers. Nearly 75% of the City's industrially-zoned land is used for industrial purposes (as measured by the King County assessors office, these include industrial uses, warehousing, transportation/utilities/communications, and institutional/public facilities). About 25% of the land is used for non-industrial purposes, including commercial uses, 'other' uses (parking, etc), and open space. Most entertainment uses are permitted in industrial zones. Prior to the moratorium, adult cabarets were permitted in industrial zones, however none have historically chosen to locate in these zones.

The Ballard/Interbay MIC generally abuts commercial and residential neighborhoods around the Magnolia, Queen Anne and Ballard neighborhoods. While much of the Duwamish area is dominated by Port-related industry, transportation and distribution activities, and borders the Pioneer Square and Chinatown/International District neighborhoods. The area also contains the City's major league sports stadia on the north, and is bordered by significant topography and the Interstate 5 freeway on the east. Recognizing that some industrial areas of the city may not be suitable for adult entertainment uses, the DPD was asked to examine the impacts of locating adult entertainment uses in a specific portion of the Duwamish industrial area (See Map, Attachment 1). Since there are no shoreline designations in this area, preferred water-dependent or water-related uses are not affected. The remainder of the discussion in this section pertains to this identified sub-area.

Warehousing, transportation, and distribution uses are critical activities in this area. Parcels are generally large, often created by consolidation of half to full blocks. The average lot size is 1.5 acres for unimproved sites and 1.1 acres when improved. The platting pattern and the freight network make the area especially suited for these activities and give it its working industrial identity.

Three major rail corridors subdivide the area and limit local east-west traffic. Buildings are often large, and characteristic of industrial uses, having few openings. Open sites are often devoted to parking or storage. Commercial activity is concentrated along two major arterials, Fourth Avenue South and Airport Way South.

Residential development is currently prohibited in industrial zones with two exceptions: artist's studio/ dwellings in existing structures and caretaker's quarters. There are no playgrounds, public or private schools, or other institutions, although some vocational training may take place in this area. The nearest school is located east of Interstate 5, approximately 1/2 mile from the study area. The nearest residential zones, on Beacon Hill located east of Interstate 5, which provides an effective barrier, and Georgetown to the South.

The Seattle Comprehensive Plan recognizes the importance of industrial businesses to the City's economy, consistent with state and regional growth management objectives, and supports protecting the limited supply of large parcels of land zoned for industrial use in the City from factors that would negatively affect investment in the area. The City's industrial lands policy has historically been to provide a stable industrial environment and to protect viable industries, and family wage jobs, from competing uses.

While not a residential neighborhood, and not associated with family activity that generally is central to the opposition to adult businesses elsewhere in the city, the Duwamish area possesses some vulnerability to the potentially negative impacts of adult entertainment businesses. Industrial area employers have reported that it can be difficult to recruit employees because of perceived public safety risks that accompany isolated areas. Pedestrian infrastructure is limited and there is often inadequate parking. The public transportation system is limited and does not often address the needs of shift work schedules. Outlying suburban locations often provide more incentives at lower costs. These factors often discourage investment in the area.

Industrial uses are also dependent on certain commercial uses for support. Allowing the location of adult entertainment uses could negatively affect the desirability of those sites for industrial support functions. If permitted, adult entertainment businesses would not necessarily compete directly for sites with industrial uses, but rather for those sites where other commercial businesses in industrial areas prefer to locate.

Public safety issues are a concern in the Duwamish study area, not necessarily because of proximity to residential or neighborhood commercial development, but because the development pattern necessary for industrial activity and its inherent isolation contribute to the more vulnerable appearance of the area. Large lot and block configurations create a platting pattern that makes east-west local access difficult. The combination of dead end streets, lack of pedestrian lighting, large site layout, outdoor storage of materials, and the lack of oversight provided by pedestrian activity, could hamper law enforcement strategies.

Allowing adult entertainment businesses throughout this large area may increase the perception of public safety risks for people working in or visiting the area and property values could be negatively affected, as well. However, the effect on property values is considered far less likely in industrial areas due in large part to the character of the area and the already lower property values associated with industrial activity than would be true downtown or in other mixed use commercial neighborhoods throughout Seattle.

While there is no historical precedent for adult entertainment businesses operating in this area, in the past, concerns were raised about what effect the

proximity of adult entertainment uses to traditional trades will have on businesses and their employees.

The economic vitality of the Duwamish industrial areas is dependent on maintaining incentives for industrial businesses and employees to remain in the City. Incentives that encourage employment, customer and support services should not be eroded. Allowing adult entertainment businesses to locate in the study area could negatively impact these incentives and contribute to the out-migration of industrial businesses from the City.

However, the most compelling arguments for limiting adult entertainment uses are to reduce the potential for public safety and property value impacts on the broadest number of citizens, in residential, commercial and mixed use neighborhoods throughout the City, where the majority of citizens live and work. Comparing the land use impacts of adult entertainment uses in the different areas of the City, adult cabaret uses would be least intrusive in industrial areas than in downtown and other Seattle, pedestrian-oriented residential and mixed use neighborhoods.

Recommendations

Adult cabarets are proposed to be prohibited in all zones except that portion of the Duwamish industrial area as shown on the map accompanying this report, and defined generally as:

South Walker Street on the north;
3rd and 4th Avenue South on the west;
Interstate 5 on the east; and
Duwamish Avenue South on the south.

South Walker Street is recommended as the northern boundary because it provides a sufficient distance from the historical and mixed use neighborhoods of Pioneer Square and the Chinatown/International District, and from frequent events at the city's major sports facilities.

3rd and 4th Avenues South provide a western boundary that distinguishes the area from the retail centers on 1st Avenue South and the Port activity and transportation corridors associated with the Duwamish.

Interstate 5 provides a formidable eastern boundary, limiting mobility between Beacon Hill and the industrial neighborhood to the west. Interstate 5, in combination with a substantial topographic change, effectively protects the single family and mixed use neighborhoods to the east on Beacon Hill.

The proposed southern boundary is defined by the right-of-way for the diagonal rail yards or Duwamish Avenue South. This boundary would provide a

necessary buffer in both distance and transition to the residential area of Georgetown, approximately ¼ to ½ mile to the south.

The area recommended in which to allow adult cabarets would provide adequate locational opportunities for adult entertainment uses away from most residential uses, and pedestrian-oriented mixed use neighborhoods.

Definition

“Adult cabaret” is proposed to be defined as a place of public assembly where licensing as “adult entertainment premises” is required by Seattle Municipal Code 6.270.

Maximum Size of Use

The size of an establishment has some correlation with the potential for impacts associated with the business. The larger the business the greater traffic or parking it is likely to generate, the greater the number of patrons on site at any one time, etc. The City's environmental laws governing traditional project or development-related impacts (SEPA) establishes a threshold for environmental review of establishments that exceed 12,000 square feet of gross floor area in industrial areas. However, non-industrial uses or those that may have unforeseen consequences on industrial use in the area, such as retail, office or residential, are either limited in size compared to industrial use (e.g. office or retail) or generally prohibited (e.g. residential). Restaurants are limited to 5,000 square feet of gross floor area. Given the secondary impacts associated with adult cabarets, and their general common traits with uses such as restaurants, a common size limit is appropriate.

Two existing adult entertainment establishments in the city are in the range of 4,000 to 6,000 square feet of gross floor area. Generally, facilities in the 4,000 to 7,000 square foot size range appear to be the norm and the proposed maximum size limit, not to exceed 5,000 square feet, is believed to be an economically viable maximum size for an adult cabaret use in Seattle.

Separation from Sensitive Uses

In order to minimize the impact of adult cabarets on sensitive uses, it is proposed that any new or expanding adult cabaret be located no closer than 1,000 feet from any religious institution, childcare facility, or any facility operated by the Seattle Public School System that provides public instruction to children, community center, park, or light rail transit station. Of these uses from which adult cabarets must maintain a minimum distance, only a light rail transit station (passenger service is scheduled to begin in 2009) is currently located within the area in which adult cabarets are proposed to be permitted. Interstate 5

effectively separates the area in which adult cabarets would be allowed from the residential and mixed use neighborhoods adjoining this area to the east.

Non-conforming Uses

DPD recommends that existing uses made nonconforming in their present location be allowed to continue. They may maintain, repair, renovate, or structurally alter the structure to accommodate the elderly or disabled. Once a nonconforming use is discontinued for more than a year, it cannot be re-established or recommenced.

Signs

DPD also recommends that pole or roof signs that are visible from State Route 99, the Spokane Street Viaduct, or Interstate 5 are not permitted in conjunction with an adult cabaret.

REFERENCES

1. Young v. American Mini Theaters, Inc., 427 U.S. 50, 49 L.Ed. 2d.310, 96 S.Ct.2440 (1976).
2. City of Renton v. Playtime Theaters, Inc., 475 U.S. 41, 89 L.Ed. 2d.29, 106 S.Ct.925 (1986).
3. Seattle Department of Community Development, City Planning Commission, Zoning Controls for Adults-Only Theaters; March 11, 1976
4. Northend Cinema, Inc. v. City of Seattle, 90 Wn.2nd 709.585 P2nd 1153 (1978).
5. Village of Belle Terre v. Boraas, 416 U.S. 1, 39 L.Ed. 2d.797, 94 S.Ct.1536 (1974).
6. Bibliography of cited studies on secondary impacts from:
 - Kelly and Cooper, Everything You Always Wanted to Know about Regulating Sex Businesses, Planning Advisory Service PAS Report No. 495-96. Chicago: American Planning Association, 2000;
 - Newport News: "Adult Use Study," Newport News Department of Planning and Development, March 1996.
 - Rochester: "Survey of Appraisers in Monroe County, New York," Summer 2000.
 - St. Paul: Effects on Surrounding Area of Adult Entertainment Businesses in Saint Paul," June 1978, City of Saint Paul Division of Planning, Department of Planning and Management; and Community Crime Prevention Project, Minnesota Crime Control Planning Board.
 - Tucson: The Tucson "study" actually consists of two memos: one from the Citizens Advisory Planning Committee, addressed to the Mayor and City Council, and dated May 14, 1990; and the other from an Assistant Chief of Police to the City Prosecutor, regarding "Adult Entertainment Ordinance," dated May 1, 1990.
 - Denver: "A Report on the Secondary Impact of Adult Use Businesses in the City of Denver," prepared by multiple city departments for Denver City Council, January 1998

- Whittier: "Staff Report, Whittier City Planning Commission; Subject: Adult Business Regulations," July 11, 1994.
 - Duncan Associates, Eric Damian Kelly and Connie B. Cooper, Survey of Appraisers, Fort Worth and Dallas: Effects of Sexually Oriented Businesses on Surrounding Property Values. Conducted for the City of Fort Worth. September 2004.
7. City of Indianapolis, Indiana, Department of Metropolitan Development, Division of Planning. "Adult Entertainment Businesses in Indianapolis: An Analysis." 1984.
 8. Duncan Associates, Eric Damian Kelly and Connie B. Cooper, Survey of Appraisers, Fort Worth and Dallas: Effects of Sexually Oriented Businesses on Surrounding Property Values. Conducted for the City of Fort Worth. September 2004.
 9. Kelly and Cooper, Everything You Always Wanted to Know about Regulating Sex Businesses, Planning Advisory Service PAS Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.
 10. Toner, William. "U.S. Cities Face Combat in the Erogenous Zone," Planning, Vol.43. Chicago: American Society of Planning Officials, September 1977.
 11. And Regulating Sex Business. Planning Advisory Service, Report No.7. Chicago: American Society of Planning Officials, May 1977
 12. City of Cleveland, Ohio, Police Department. Special Investigation Unit Report, August 1977.
 13. City of Los Angeles, California, Department of City Planning. "Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles." June 1977.
 14. City of Austin, Texas, Office of Land Development Services. "Report on Adult Oriented Businesses in Austin." May 1986.
 15. City of Phoenix, Arizona, Planning Department. "Adult Business Study." May 1979.
 16. Pratter, Jerome and Connie Hager, "Zoning Laws, Not Obscenity Laws, Offer the Way to Control Adult Entertainment," Nation's Cities Weekly, Vol.3, April 21, 1980.
 17. City of Bothell, Police Department Investigations. 1984.

